

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD REPEALING, AMENDING AND REPEALING AND RECREATING RULES

The Wisconsin Natural Resources Board proposes an order to repeal NR 10.104(5)(b)2.; to amend NR 10.104(4)(b) and (5)(b)1. and to repeal and recreate NR 10.28 relating to deer management unit population goals and boundaries.

WM-48-04

Analysis Prepared by the Department of Natural Resources

Statutory Authority and Explanation: Statutes that authorize the promulgation of this rule order include sections 29.014, and 227.11, Stats. These sections grant rule making authority to the department to establish seasons and bag limits for hunting that ensure the citizens of the state continued opportunities for good hunting and that all rules promulgated under this authority are subject to review under ch. 227, Stats.

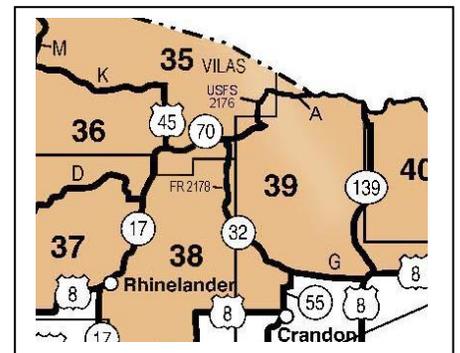
Statutes Interpreted and Explanation: In promulgating this rule s. 29.014, Stats. has been interpreted as allowing the department the authority to establish deer management unit boundaries and population goals to assure the health and vigor of the deer herd and to prevent overabundant populations of deer that can lead to agricultural, environmental and property damage.

Related Statute or Rule: Deer unit boundaries and goals are reviewed every 3 years according to the Wis. Adm. Code (s. NR 10.104 (3)) requirements and Voigt case (Chippewa treaty rights) stipulations. However, given the constraints placed on agency resources due to CWD and the budget shortfall, the Department, in consultation with the Wisconsin Conservation Congress and Great Lakes Indian Fish and Wildlife Commission (GLIFWC) recommended a limited unit review in 2004.

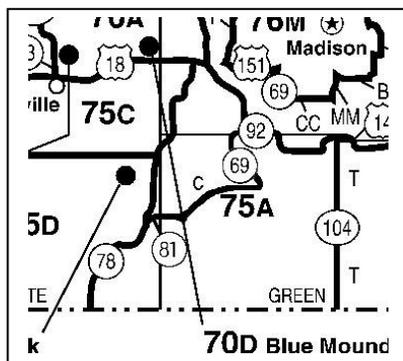
Plain Language Rule Analysis:

The rule would modify the boundaries of Deer Management Units (DMU) 35, 38 and 39. Habitat type in units 39 and 35 are not consistent and the units could be divided better to keep habitat consistency. Also, by splitting units, harvest could be better focused on the western portion of unit 39. The eastern portion of the unit has low deer densities that result in low quotas, so hunters in the western portion never get the permits they need to control the deer population there. The proposed change would split portions of units 35 and 39 and also add extra area to unit 38. The proposal (as shown) is to add that portion of Unit 35 north of STH 70, east of USFS Rd. 2176 and south of CTH

A to Unit 39 and add that portion of Unit 39 west of USFS Rd. 2178 to Unit 38.



Proposed DMU Boundaries for Units 35, 38 and 39.



The rule would also modify the boundaries of DMU 75A and 76. The public feels that too many antlerless permits have been issued for 75A due to deer population estimates that are too high. They believe this inflated deer population is due to habitat discrepancies between the Northwestern part of the unit which has more deer habitat and higher deer numbers than the remainder of the unit that is primarily agricultural with little deer habitat and relatively low deer numbers. The northern portion of unit 75A would be combined with unit 76 so land use is more consistent within unit 75A. The revised boundary (as shown) would start at HWY 78 in Argyle, then east on HWY 81 to HWY C, then east on HWY C to HWY 69, then north on HWY 69 to where it intersects with the existing DMU boundary.

Proposed DMU Boundaries for Units 75A and 76.

In addition, the rule would modify the overwinter deer population goals for Units 3 (12 to 16), 4 (10 to 15), 15 (25 to 22), 28 (11 to 15), 29A (12 to 15), 61 (15 to 20), and 74A (15 to 20).

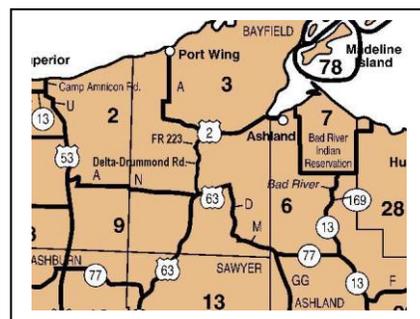
These changes are recommended to provide hunters with more deer hunting opportunities in instances where goals are proposed for increases (3, 4, 28, 29A, 61, and 74A) and to alleviate agricultural damage in the instances where the goals have been recommended for a decrease (15). The department does not anticipate significant ecological, agricultural or forestry impacts because of the proposed goal increases. However, there is a concern that a higher goal with low hunter densities will mean continuous herd control seasons.

Finally, this rule eliminates references to temporary population goals that were utilized in 2001, 2002 and 2003.

NRB Amendment:

The NRB voted to split unit 5 and add the west half to DMU 2 and add the east half to DMU 6. The boundary between these units will be Forest Road 223 on the north end and the Delta-Drummond Rd. on the south end.

Federal Regulatory Analysis: Provided state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of Federal statutes and regulations, regulation of hunting and trapping of native species has been delegated to state fish and wildlife agencies. Additionally, none of the proposed rules exceed the authorities granted the states in 50 CFR 10.



NRB Amendment.

State Regulatory Analysis: All adjoining states (MN, MI, IL and IA) have established management units for the purpose of managing deer populations. By using units with identifiable boundaries, deer populations can be monitored and kept at various population levels to more effectively control the deer herd and to address regional differences in habitat, population (human and deer) and to reduce conflict with other land uses such as residential, agricultural or forested.

Summary of Factual Data and Analytical Methodologies: The Department has evaluated the need for deer population goal reviews based on the following criteria: 1) Intolerable level of agricultural damage when at goal; 2) Ability for of hunters to harvest enough deer to keep the population at the goal level; 3) Hunter demand for antlerless permits; 4) Vehicle-deer accident rate; and 5) Hunter buck harvest success rate. In addition, an Environmental Assessment was prepared in 1995. Copies of *Deer Population Goals and Harvest Management Environmental Assessment* is available from the department upon request.

Anticipated Private Sector Costs: These rules, and the legislation which grants the department rule making authority, do not have a significant fiscal effect on the private sector. Additionally, no significant costs are associated with compliance with these rules.

Effects on Small Businesses: These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule.

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Section 1. NR 10.104(4)(b) is amended to read:

NR 10.104(4)(b) *Unit goals.* The deer population goals for each deer management unit described in s. NR 10.28 shall be expressed as the number of deer per square mile of deer range in January and are as follows:

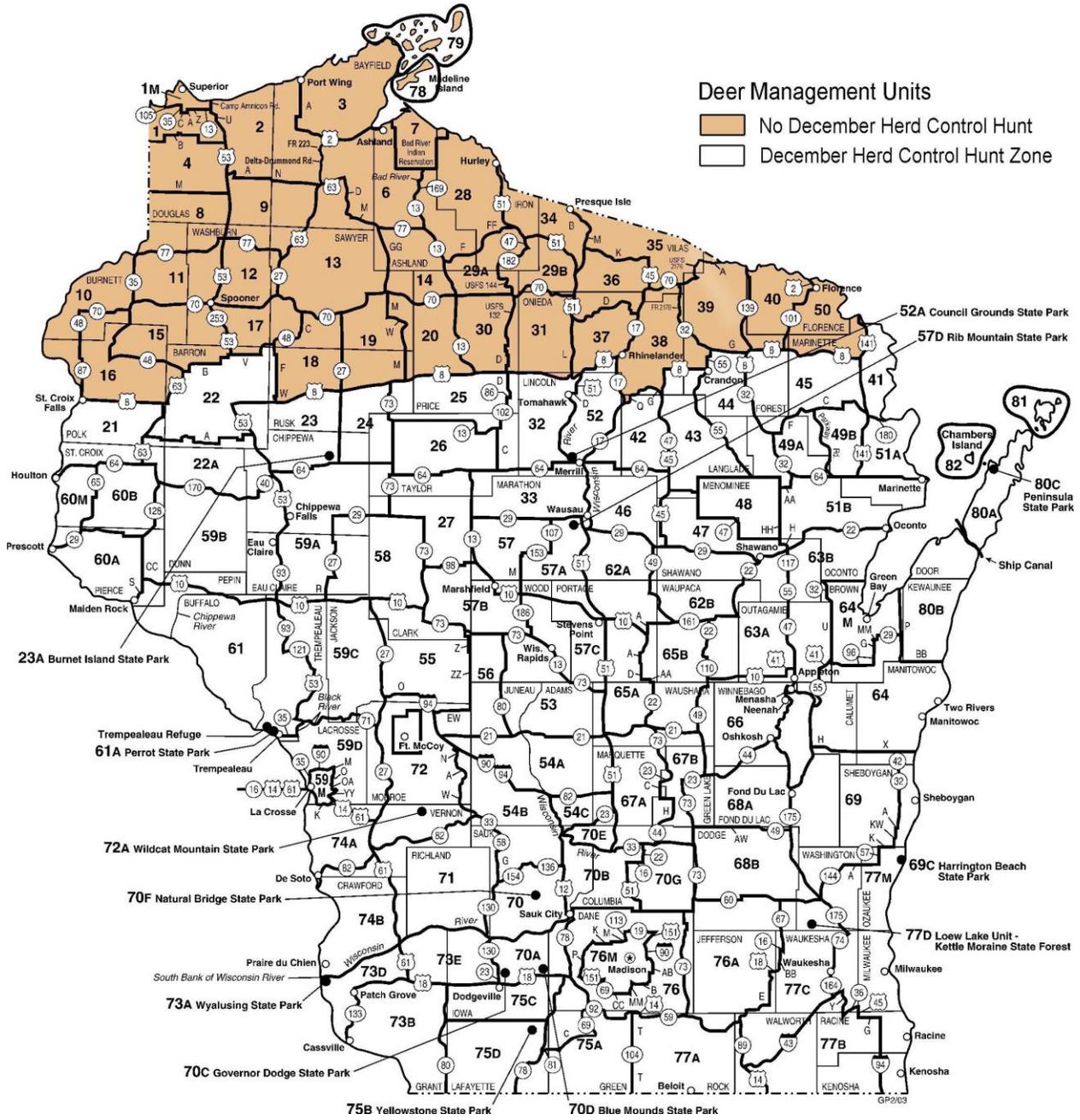
<u>Management Unit</u>	<u>Deer Goal</u>	<u>Management Unit</u>	<u>Deer Goal</u>	<u>Management Unit</u>	<u>Deer Goal</u>
1.....	20	37.....	25	62B.....	25
1M.....	10	38.....	20	63A.....	25
2.....	18	39.....	20	63B.....	25
3.....	12 16	40.....	20	64.....	20
4.....	10 15	41.....	25	64M.....	10
5.....	20	42.....	20	65A.....	30
6.....	12	43.....	15	65B.....	30
7.....	15	44.....	17	66.....	25
8.....	20	45.....	20	67A.....	25
9.....	20	46.....	25	67B.....	25
10.....	25	47.....	25	68A.....	30
11.....	20	48.....	20	68B.....	30
12.....	17	49A.....	25	69.....	25
13.....	15	49B.....	25	70.....	25
14.....	14	50.....	20	70A.....	25
15.....	25 22	51A.....	25	70B.....	25
16.....	25	51B.....	25	70E.....	25
17.....	15	52.....	20	70G.....	30
18.....	20	53.....	25	71.....	25
19.....	20	54A.....	25	72.....	20
20.....	18	54B.....	25	73B.....	20
21.....	25	54C.....	25	73D.....	20
22.....	20	55.....	25	73E.....	22
22A.....	20	56.....	30	74A.....	15 20
23.....	20	57.....	22	74B.....	20
24.....	20	57A.....	25	75A.....	20
25.....	20	57B.....	25	75C.....	20
26.....	20	57C.....	30	75D.....	20
27.....	20	58.....	25	76.....	20
28.....	11 15	59A.....	20	76A.....	25
29A.....	12 15	59B.....	15	76M.....	10
29B.....	12	59C.....	25	77A.....	20
30.....	15	59D.....	20	77B.....	15
31.....	20	59M.....	10	77C.....	15
32.....	21	60A.....	20	77M.....	10
33.....	20	60B.....	20	78.....	15
34.....	17	60M.....	10	80A.....	15
35.....	20	61.....	15 20	80B.....	20
36.....	25	62A.....	25	81.....	15

Section 2. NR 10.104(5)(b)1. is renumbered NR 10.104(5)(b) and is amended to read:

NR 10.104(5)(b)4. 'Quota objective.' Using the overwinter deer population estimate established under par. (a), expected fawn production and overwinter mortality, the expected archery harvest of antlerless deer excluding those harvested under authority of hunter's choice and antlerless deer hunting permits, and the deer population goal in sub. (4), ~~except in units 67A, 67B, 70B, 70E and 78 in 2001, 2002 and 2003 as described in subd. 2.,~~ the department shall annually calculate an antlerless deer kill quota for each unit with the objective of maintaining the deer herd at the established deer population goal or temporary overwinter target population density.

Section 3. NR 10.104(5)(b)2. is repealed.

Section 4. NR 10.28 is repealed and recreated to read:



Section 5. Effective Date. This rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Section 6. Board Adoption. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on December 8, 2004.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)